

42. The carpet of claim 40, where the carpet latex compound further comprises from about 0.1 parts by weight to about 5.0 parts by weight thickener phr.

43. The carpet of claim 2, where the carboxylated styrene-butadiene rubber is crosslinked.

44. The carpet of claim 21, where the carboxylated styrene-butadiene rubber is crosslinked.

45. The carpet of claim 40, where the carboxylated styrene-butadiene rubber is crosslinked.

46. The carpet of claim 40, where said rosin acid soap is present in an amount from about 0.5 parts by weight to about 1 parts by weight phr.

#### REMARKS

##### ALLOWABLE SUBJECT MATTER

Applicants hereby acknowledge that the Examiner has found claims 21-27 to be allowable.

##### ELECTION RESTRICTION

Applicants hereby affirm the election of Group 1, claims 2, 16, 17, and 21-27. In view of the fact that the Examiner deemed the Restriction Requirement to be final, claims 3 and 28-34 have been cancelled without prejudice or disclaimer and subject to Applicants' right to file divisional or continuing applications directed thereto.

##### REJECTIONS UNDER 35 U.S.C. § 103

The Examiner has rejected claim 2 under 35 U.S.C. § 103(a) as being unpatentable over DD 208 740 to Gaertner et al., in view of U.S. Patent No. 4,272,419 to Force. The Examiner acknowledges that Gaertner fails to teach the use of a filler but nonetheless believes that it would have been obvious to do so in view of Force. The Examiner also acknowledges that Gaertner fails to teach that

the SBR is carboxylated, but nonetheless believes the same would have been obvious because Force allegedly teaches carboxylated SBR. The Examiner has also rejected claims 16 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Gaertner in view of Force, and further in view of U.S. Patent No. 5,278,222 to Stack. The Examiner acknowledges that Gaertner and Force lack any specific teaching of the carboxylated SBR composition, but nonetheless believes that the specifics would have been obvious in view of the teachings of Stack.

Although the Applicants do not believe that the Examiner has established a *prima facie* case of obviousness by combining the foregoing references, the Applicants have nonetheless amended claim 2 to recite a similar composition as set forth in claim 21, which has noted above has been found to be allowed. Accordingly, Applicants believe that this amendment places claim 2, as well as the claims dependent thereon, in condition for allowance.

Applicants have also added independent claim 40. While the limitations set forth in this claim are not identical to those in claim 21, the Applicants believe that the additional recitation set forth therein defines over the prior art, especially Gaertner, either alone or in view of the secondary references. Namely, while Gaertner teaches a polymerization process that employs rosin acid soaps as an emulsifier, Gaertner does not set forth any specific amount of emulsifier that would be useful in synthesizing the polymers. Moreover, as the Applicants have explained throughout the written description, the amount of rosin acid soap recited in the claims results from a post addition of the rosin acid soap to the composition. Accordingly, the amount of rosin acid soap recited in claim 40 is not an obvious extension of Gaertner, who simply uses rosin acid soap for purposes of emulsification during the polymerization process. Applicants have found that the formulation of this invention provides improved tuft bind and delamination strength.<sup>1</sup>

Additional dependent claims have been added to recite the amount of rosin acid soap<sup>2</sup>, the amount of emulsifier<sup>3</sup>, the crosslinking of the carboxylated

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<sup>1</sup> Written description, page 2.

<sup>2</sup> Written description, page 9.

<sup>3</sup> Written description, page 6.

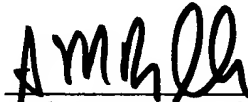
SBR<sup>4</sup>, and the use of rosin acid soap as an emulsifier<sup>5</sup>.

### CONCLUSION

In view of the foregoing amendments and arguments presented herein, the Applicants believe that they have properly set forth the invention and accordingly, respectfully requests the Examiner to reconsider the rejections provided in the last Office Action. A formal Notice of Allowance of claims 2, 16, 17, 21-27, and 35-46 is earnestly solicited. Should the Examiner care to discuss any of the foregoing in greater detail, the undersigned attorney would welcome a telephone call.

The Commissioner is hereby authorized to charge the amount of \$36.00 to Deposit Account No. 07-1045 for the fee associate with the filing of additional claims. No further fee is believe to be due at this time for the filing of this document, nonetheless, in the event that any fee required is missing or insufficient, the undersigned attorney hereby authorizes the Commissioner to charge payment of any fees associated with this communication or to credit any overpayment to Deposit Account No. 07-1045.

Respectfully submitted,



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<sup>4</sup> See discussion of the use of a curative at page 10.

<sup>5</sup> Written description, page 7.

**MARKED-UP CLAIMS**

2. (Amended) A carpet comprising:

a backing;

a pile which is bonded to said backing with an admixture comprising:

a carboxylated styrene-butadiene rubber;

from about 0.05 parts by weight to about to about 10 parts by weight rosin acid soap phr;

from about 0.2 parts by weight to about 6.0 parts by weight emulsifier phr;

from about 250 parts by weight to about 800 parts by weight filler phr; and

from about 0.1 parts by weight to about 5.0 parts by weight thickener phr

[a rosin acid soap and a filler].